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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/667,408

09/21/2000

Charles E. Roos

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8750

7590

11/02/2006

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EXAMINER

BORISSOV, IGOR N

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,408

Applicant(s)

ROOS, CHARLES E.

Examiner

Igor Borissov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-33, 36, 37, 39 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 34, 35, 38, 40 and 42-58 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Amendment received on 7/13/2006 is acknowledged and entered. Claims 1-29 have been canceled. New claims 30-58 have been added. Claims 30-58 are currently pending in the application.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- A. Claims 30-41, 49, 51, 52, 55, 57 and 58 drawn to an apparatus with multiple interfaces configured for providing communication between a utility server and a utility meter, classified in class 340, subclass 870.02.
- B. Claims 42-48, 50, 53, 54 and 56 drawn to an apparatus with multiple interfaces configured for encrypting user data and communicating with a financial institution for authorization of a transaction, classified in class 705, subclass 26.

Inventions A and B are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention B has utility separate from that of inventions A such as conducting an e-commerce from a home. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, or patentability requirements, restriction for examination purposes as indicated is proper.

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Species

This application contains claims directed to the following patentably distinct species of the claimed invention:

In the event applicant elects Invention C above, applicant is further obligated to elect among the following species as follows:

Species 1: Claims 30-33, 36, 37, 39, 41

Species 2: Claims 34, 51

Species 3: Claims 35, 52

Species 4: Claim 38

Species 5: Claim 40

Species 6: Claim 49

Species 7: Claim 55

Species 8: Claim 57

Species 9: Claim 58

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP j 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Charles Roos on September 27, 2006 a provisional election was made without traverse to prosecute the invention of A, Claims 30-33, 36, 37, 39 and 41.

Affirmation of this election must be made by applicant in replying to this Office action.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Accordingly, Claims 34, 35, 38, 40 and 42-58 are withdrawn from further consideration by the examiner, 37 FR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 32 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 32 recites the limitation "said interfaces located within said utility user's household" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 33 recites the limitation "said digital service providers" in line 2. There is insufficient antecedent basis for this limitation in the claim. Furthermore, a phrase "scrambler scramble" appears to be misspelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 33, 36, 37 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy et al. (US 6,150,955).

Tracy et al. (Tracy) teaches an apparatus for transmitting data via a digital network, comprising:

Claim 30,

a utility meter interface configured to communicate with a meter for measuring the utility usage in said household of a utility delivered to said household (C. 3, L. 64-67);

a network interface configured to communicate with said digital network (C. 4, L. 7-33);

a household interface configured to communicate with household devices of said utility user (C. 7, L. 16-44); furthermore, note: "communicating voice/data

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including caller's identification and billing information over said digital network", thereby indicating providing services over said digital network (C. 5, L. 37-43

a computer disposed within said data port configured to store and process data and other communications from said interfaces (C. 7, L. 16-17).

Tracy does not explicitly teach that said network is the Internet. Official Notice is taken that it is old and well known that the Internet is a largest existing network. Also, it is old and well known to provide services over the Internet.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tracy to include that said network includes the Internet, because it would advantageously allow to save money by avoiding building a dedicated network.

Claim 33. Said apparatus adapted to scramble (encrypt) data transmitted over said network (C. 6, L. 37-39).

Claim 36. Said apparatus adapted to communicate said data wirelessly (C. 4, L. 24-25).

Claim 37. Said apparatus including means for power back-up in case of power outage (C. 6, L. 62-64).

Claim 41. Said apparatus including a sealed housing, said apparatus is adapted to detect a physical intrusion and send a security breach signal to a utility provider (C. 7, L. 10-15; C. 8, L. 55-56,65-67; C. 9, L. 1-3).

Claims 31, 32 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy et al. in view of McNamara et al. (US 5,528,507).

Claim 31:

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Tracy teaches all the limitations of claim 31, including routing data over said digital services network, except explicitly teaching that said apparatus function as an Internet router.

McNamara et al. (McNamara) teaches an intelligent utility measuring device which is interfaced with a high-speed backbone network via a broad band interface (fiber/optical cable), and which includes a customer's home monitoring and control network which routes data between the customer's home (including utility meters and other household devices) and gateways, thereby providing for video, voice and data communications (Figs. 2, 4; C. 2, L. 18-23; C. 3, L. 33, 57-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tracy to include that said apparatus function as an Internet router, as disclosed in McNamara, because it would advantageously allow to avoid the centralized routing and handling facility, and provide simultaneous two-way communication with an entire service area population, as specifically disclosed in McNamara (C. 2, L. 2-3, 7-8).

Claim 32. See reasoning applied to claim 31.

Claim 39.

Tracy teaches all the limitations of claim 39, including means for power back-up in case of power outage (C. 6, L. 62-64), except specifically teaching means to identify the location of said multifunction dataport, and that said computer is configured to communicate said location information of said dataport when said power outage is detected.

McNamara teaches said intelligent utility measuring device (IUU), wherein each IUU is associated with a particular customer's home and has individual unique physical unit address which allows each IUU directly communicate with a network manager (C. 5, L. 1-10), thereby indicating ability to communicate from a

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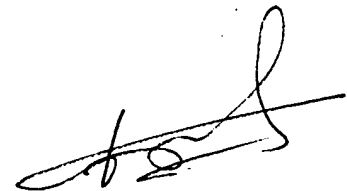
specific IUU any pertinent information associated with said specific IUU disposed at the particular location.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tracy to include means to identify the location of said multifunction dataport, and that said computer is configured to communicate said location information of said dataport when said power outage is detected, as suggested in McNamara, because it would advantageously to instantaneously detect the faulty unit thereby avoiding financial losses associated with loss of metering data.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



IGOR N. BORISSOV
PRIMARY EXAMINER

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10/24/2006